IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.2899/03

Kalyan Sahai Choudhary **Versus** State & Ors.

DATE OF ORDER :: 19/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Sudesh Bansal, for petitioner
Mr. B.K. Sharma, Dy.G.A.

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Instant petition has been filed assailing the order dated 18th February, 2003 [Ann.4] passed by the District Collector, Dausa.

Respondents in their reply have raised objection apart from merits that the present writ petition is not maintainable since the order impugned is appealable one u/s.75 of the Act before the Revenue Appellate Authority and once the statutory efficacious remedy is available to petitioner, this court will not like to exercise extraordinary jurisdiction under Article 226 of the Constitution of India.

Counsel for petitioner submits that he has assailed the order of District Collector on the premise that it is per se bad and contrary to the provisions of the Act. As such, despite availability of alternative remedy of appeal, he has approached this court and the matter remained pending for almost 4 years by now. Even he has now been asked to avail remedy of appeal,

certainly which is barred by limitation since 30 days time is available for filing appeal.

It appears from the record that instant petition was preferred by petitioner on 23rd April, 2003 and notices were issued on 28th May, 2003. It will certainly cause injustice to petitioner if he is not being provided right of appeal which is available to him under statute.

The writ petition stands dismissed. However, it is made clear that if appeal is preferred by petitioner within 30 days, the authority may treat it to be under limitation and examine his grievance on merits.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.